

Bi-monthly  
E-Newsletter  
of the Missouri  
Office of Equal  
Opportunity

SEPT  
2012

# the OEO newsletter

## From the Director's Desk



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Disparity study. Disparity study. Disparity study! An updated State of Missouri Disparity Study is the current goal of the Office of Equal Opportunity (OEO). An updated disparity study will serve a variety of purposes:

- Provide updated information about the status and availability of minority- and women-owned businesses that currently exist in the state;
- Provide a basis for determining contract goals that can and should be achieved; and
- Provide a legally sustainable foundation for enforcing whatever goals are established.

A disparity study is one of the many avenues the Office of Administration and the Office of Equal Opportunity are pursuing to ensure that minorities and women-owned businesses have representation in state expenditures. We also realize this cannot be the only song that we sing. This is why we are also exploring other ways to increase the number of contract opportunities that are being awarded throughout the state.

One project we are pursuing is the development and creation of an online bidding system. Our research indicates several other states have experienced tremendous success increasing minority- and women-owned contract awards with a state-run procurement system.

In addition to awarding contracts, another area we are focusing on is monitoring and compliance. We realize there are areas that we need to work on; but we also realize we need your help and assistance in understanding the nature of the problem, if we are to develop an effective solution to these issues.

Finally, as we move forward with the development of new systems and processes, educating users on how to access contracts will be crucial to the success of this system. We envision hosting several "how to" webinars that will discuss how to access contracts, how to find out about bid opportunities, how to register with the state, who to contact about discretionary expenditures and more. Stay tuned as we work these new processes into our schedule.

The disparity study and online bidding system each will take time to initiate and implement. Completion of the disparity study depends on our ability to successfully raise more than \$1 million to fund the study. Implementation of the online bidding system will require extensive software set up, coordination, and communication with multiple entities statewide. However, we are moving forward in our efforts to increase minority and women participation. We thank you for your support and your patience.

# mind your BUSINESS

Success is a result of hard work and consistent effort.



Last month's issue featured Sweetie Pie's restaurants of St. Louis as an example of a Missouri business that is about the business

of "minding its business."

The intent for this column is that it would be recommendation driven, so don't be shy. Tell us about your favorite business or businessperson - even if it's you. If we have three recommendations for the same business, we will profile that business in this section.

There are many successful businesses in Missouri and we want our readers to know about them. Many have been so successful that they have expanded their operations in state or out of state, which is a true testament to the hard work and success of a business.

To recommend a Missouri business for this column, please submit your recommendation via e-mail to [oeo@oa.mo.gov](mailto:oeo@oa.mo.gov). Along with your submission, please state why you have selected the business, what makes it a success, and the qualities or skills the owner(s) possess that showcase good examples of how to "mind your business".

*Picture your favorite business person here*





# ask OEO

Get answers to all your questions!

**How can I learn about training opportunities made available through the OEO program and are these services offered for free?**

Becoming a certified M/WBE with the state of Missouri gives you access to information, workshops and training opportunities not readily made available to other businesses. Typically, there is no cost or a nominal fee to attend these events.

Also, the on-site visit which is a requirement of all applicants within the State of Missouri who apply for M/WBE Certification through the Office of Equal Opportunity, helps our program understand the way your business operates and the services you provide. So when a state contract opportunity becomes available that serves your purpose, we have a database of M/WBEs to notify about the opportunity.

**For several months now, I've been hearing about the OEO's efforts to raise money for a State Disparity Study. What's that about and why should I care?**

The Office of Equal Opportunity is responsible for promoting a diversified workforce within state government and assisting women and minorities in finding opportunities to contract with the state. Unfortunately, the state has seen a steady decline in M/WBE utilization over the past 15 years. Furthermore, the state has not had an updated disparity study since 1996.

The purpose of a disparity study is to determine whether M/WBEs have been under utilized in state contract opportunities. In order for the state to continue its minority participation and inclusion program, a U.S. Supreme Court decision (*City of Richmond v. J.A. Croson Co.*) in 1989 ruled that state and local preference programs must document differences and show a historical pattern of discrimination. In other words, the state must conduct a disparity study to determine whether there are gaps in procurement practices within state government. The OEO is leading this important initiative and hopes that you will help us help you by making a contribution.



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Stay connected with us 24/7 by visiting our website,  
<http://o eo.mo.gov/>

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# Internal Controls

## *Fraud and the Small Business*



**B**usiness sustainability requires the successful coordination and execution of a variety of factors including marketing, distribution, advertising and promotion, just to name a few. Each of these factors is focused on “external” forces that must be in sync to achieve customer satisfaction. But sustainability also relies on “internal” forces that, if overlooked, can ruin or wreak havoc on the most successful businesses.

Internal controls are crucial to the longevity and sustainability of every business. What is meant by internal controls? Are we talking about making sure we lock our doors when we leave? Or secure company documents in locked file cabinets? Yes, that's part of it. But the concept of internal controls also focuses on minimizing "fraud" by limiting who has access to what.

Occupational fraud represents a significant threat to small businesses because small companies typically have fewer “anti-

fraud” controls in place than their larger business counterparts. Lack of controls make small businesses particularly vulnerable to fraud. When you consider nearly half of all victim organizations do not recover any losses that they suffer due to fraud, then it becomes imperative that all small businesses engage in a conversation about internal controls.

Auditors are most often the source of conversations about “internal controls.” Small businesses typically don’t have the same audit requirements as larger companies and therefore may not have a relationship with an audit professional. However, it doesn’t hurt small businesses to learn from the examples set by large companies and take the necessary steps to protect limited resources and valuable business assets.

A formal definition of internal controls is “processes and procedures that minimize the risk that errors and irregularities will occur, and go undetected, in the normal course of business.” What does that mean?

In this formal definition, here are a few things to keep in mind. Errors and irregularities have distinct meanings. An error is defined as an unintentional mistake, like when we accidentally hit the wrong number on an adding machine.

An irregularity is defined as an intentional mistake, like when we overstate the amount of cash we have or overstate the assets we actually own, or understate the number of people we actually owe or understate how much we actually owe them. Irregularities are considered deceitful, dishonest and potentially linked to other fraudulent behavior. And, depending on the severity of the misstatement, these types of situations are the basis for the stories that usually make the headlines.

The ability for either of these occurrences, errors or irregularities, to continue “undetected” during the normal course of business transactions is what is meant when an auditor states “there is a lack of or there are insufficient internal controls in place.” When there are insufficient

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# Internal Controls

## *Fraud and the Small Business*

controls in place, this means there are insufficient procedures in place that would have made the discovery of an irregularity immediately known. If there are insufficient procedures in place, an employee has the ability to perpetrate fraud and the fraudulent behavior can go undetected for an indefinite period of time.

Over the last few decades, the focus and importance of internal controls has increasingly grown in significance. The Association of Certified Fraud Examiners (ACFE) was created to govern professional fraud examiners. ACFE has conducted research into the behavioral red flags displayed by perpetrators of fraud and revealed the following trends in the statistical profile of individuals who engage in occupational fraud:

- Male
- In a staff-level position
- Between the ages of 31 and 45
- Between one and five years of tenure at the victim organization
- The holder of an undergraduate degree
- Employed in the accounting, primary operations or sales departments
- First-time offenders with clean employment histories

This is not an exhaustive list of all the possible profiles of a fraudster nor is ALL occupational fraud committed by individuals falling into these categories. But there is behavior that is common to most fraudsters. More than 80% of fraudsters exhibit behavioral warning signs of their misdeeds and, not surprisingly, living beyond their means

and experiencing financial difficulties consistently are the most commonly observed behavioral red flags.

In contrast, approximately 5% to 10% of fraudsters studied had previous legal problems, a finding that emphasized the limited effectiveness of relying on background checks as a fraud-prevention measure. Approximately 87% of occupational fraudsters had never been charged or convicted of a fraud-related offense, and 84% had never been punished or terminated by an employer for fraud-related conduct.<sup>1</sup>

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**“Internal controls are crucial to the longevity and sustainability of every business.”**

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So what can you as a small business do to minimize your risk of being victimized? CONSULT WITH A PROFESSIONAL. Significant improvements in technology, increased involvement of the internet in business transactions and changes in the sophistication of business operations requires opinions from professionals who have kept pace with these changes. In the meantime, here are a few areas to consider:

- Segregate individuals' duties that involve authorization of transactions

from recording these transactions

- Separate access to blank checks or check stock from the individual who signs checks
- Perform monthly bank reconciliations by someone who doesn't write/record checks
- Consider job rotation, enabling co-workers to identify errors or unethical behavior
- Consider mandatory vacations, which can lead to discovery of irregularities by co-workers.

Keep in mind that no system of internal controls is foolproof. Even with all these controls in place, fraud can still occur, if motivation meets the right opportunity. As a small business owner, your objective is to minimize your risk of being a victim of fraud. Your sustainability depends on it.

<sup>1</sup> Journal of Accountancy, August 2012.



There are 16 state government agencies in Missouri. You may access information about all Missouri state government agencies at [www.Mo.Gov](http://www.Mo.Gov)



## Understanding Missouri Wage and Hour Laws

The following information serves as a guide for Missouri employers and employees navigating the state's wage and hour laws. These laws were put in place to promote and protect our state's economic stability and are enforced by the Missouri Department of Labor and Industrial Relations' Division of Labor Standards (DLS).

### Minimum Wage Law:

Most employers must pay their employees the state minimum wage rate. (Employers engaged in retail or service businesses whose annual gross income is less than \$500,000 are not required to pay the state minimum wage rate.) Tipped employees must be paid half of the state minimum wage rate. However, if the tipped employee does not make up the other half of the minimum wage in tips, the employer is required to pay the difference. Employers not subject to the minimum wage law can pay employees wages of their choosing.

Employees who feel they have not been compensated should file a complaint with the DLS to be investigated. Visit [www.labor.mo.gov/DLS/WageAndHour/MinimumWage](http://www.labor.mo.gov/DLS/WageAndHour/MinimumWage) for current state and federal minimum wage rates or to file a complaint.

### Reducing/Deductions from an Employee's Wages:

An employer may reduce an employee's wages, providing the employee is given a 30-day advance written notice of a reduction in wages. This notice requirement does not apply if an employee is asked to work fewer hours or changes to a different position with different duties. Any company or corporation violating this requirement shall pay each affected person \$50, which can be recovered through court action.

**Deduction** - An employer may deduct funds from an employee's wages for cash register shortages, damage to equipment, repayment of a cash advance or loan, for purchases made



## Missouri Wage and Hour Laws ... continued from page 6

at the place of business, or for similar reasons. Deductions can be made from an employee's wages as long as the deductions do not take the employee's wages below the required minimum hourly wage rate.

### **Work Hours, Travel, and Overtime Pay:**

**Work Hours** - There is no minimum or maximum number of hours an employee may be scheduled or asked to work. This is in accordance with the Fair Labor Standards Act (FLSA). Both Missouri and federal labor laws require most employers to pay or compensate their employees for the number of actual hours worked.

**Travel Time** - Generally, time spent commuting from home to the workplace is not work time. But time spent traveling during normal working hours as part of the job is considered work time and employees are entitled to be paid for this travel time. Such travel time will be taken into account as work time in determining whether employees have been paid the minimum wage rate.

**Overtime Pay** - Employers must pay at least one and one-half times the employee's regular rate of pay once overtime pay is in effect. Overtime pay begins once an employee works more than 40 hours in a work week. Overtime pay is not required under the federal and state minimum wage laws when an employee works for more than 8 hours a day, so long as the employer does not allow employees to voluntarily waive their rights to overtime pay and accept straight time instead. Any employer that asks an employee to do so violates the law. To file a complaint, visit [www.labor.mo.gov/DLS/WageAndHour/MinimumWage](http://www.labor.mo.gov/DLS/WageAndHour/MinimumWage).

### **Discharged Employee and Final Wages:**

Missouri follows the Employment-At-Will Doctrine. This means that both the employer and employee can terminate the employment relationship **at any time and for any reason**, as long as there is no employment contract to the contrary, there is no discrimination under civil laws (based on race, color, age, national origin, religion, ancestry, sex, or physical/mental disability), no merit laws apply, or the state's limited public policy exception does not apply. Under Missouri's limited public policy exception to the Employment-At-Will Doctrine, an employer may not discharge an at-will employee for (1) refusing to violate the law; (2) reporting violations of the law; or (3) asserting legal right, for example, filing a workers' compensation claim.

Employers are required to pay a discharged employee all wages due at the time of dismissal. State law does not require payment of earned vacation time at the time of termination. However, an employee has the right to attempt recovery of earned vacation time through the courts.

*(Source: Missouri Department of Labor and Industrial Relations)*



# Women's corner

**Featuring Lisa Althoff:**  
*Executive Director of the Missouri Women's Council*

**L**isa Althoff is Executive Director of the Missouri Women's Council. The Council strives to promote and increase women's economic and employment opportunities through education and training, and works to connect women in business and women in the workforce to information and resources.

The Missouri Women's Council also offers information and resources to women with an interest in starting their own business, finding a great job, upgrading their skills, and obtaining State contracts.

As Executive Director, Althoff implements and carries forth policy set by the Missouri Women's Council Board, promotes the mission, and supports and maintains the integrity of the Council. She also advises and assists the Board in developing and implementing programs and conferences.

The Executive Director works closely with other agencies and community-based organizations to build awareness, educate, promote opportunities for, and enhance the lives and well being of Missouri's women and families.

Althoff received her undergraduate degree from Lincoln University and a master's degree in business administration from William Woods University. At Lincoln University, she was appointed to the Women's Leadership Academy which focuses on the preparation of talented women for the workforce and for future



**Lisa Althoff**

leadership roles. It also fostered mentorship for high school girls and young college women. Althoff continues to work with the Women's Leadership Academy's mentor protégé program in mentoring college women.

To learn more about the Missouri Women's Council, visit the website, <http://www.womenscouncil.org/>.



*Gov. Nixon presents a proclamation to the Missouri Women's Council in celebration of Women's Equality Day in August 2011.*



# Missouri Disparity Study Initiative

**We need your support. Please make a tax-deductible donation today!**



If you would like to make a contribution to the State of Missouri Disparity Study, visit our website, [oeo.mo.gov/disparity/](http://oeo.mo.gov/disparity/) to pay by credit card, debit card or electronic check. You will then be directed to a safe and secure website.

To make a contribution by check or money order, please mail your contribution to:

Office of Equal Opportunity  
P.O. Box 843244  
Kansas City, MO 64184-3244

## **ABOUT OUR EFFORTS**

For the first time ever, the state of Missouri has formed a public-private partnership to raise funds for an updated disparity study. Support from public and private entities will allow the state to complete a disparity study, which compares the actual number of minority- and woman-owned business enterprises (M/WBEs) that exist in the state against the actual number of M/WBEs being utilized in state

government contracts. A disparity exists when there is underutilization of available M/WBEs.

## **WHY A STATE DISPARITY STUDY IS NEEDED**

Empirical evidence strongly suggests that a disparity study can result in improved economic growth, creation of contracting opportunities, increased business development, increased tax revenue, and additions to the job market. The last State of Missouri Disparity Study was commissioned in 1994 and implemented in 1998. An updated disparity study must be completed to maintain the legal basis of the M/WBE program.

## **YOUR DONATION WILL BE TAX DEDUCTIBLE**

According to 26 USC § (c) (1) a charitable contribution is defined as a contribution or gift for the use of a state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.